

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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JERRY J. DUWENHOEGGER, SR.,

Case No. 10-CV-3965 (PJS/JSM)

Plaintiff,

v.

JOHN R. KING, STEVEN HAMMER,  
MICHELLE L. SMITH, MARY MCCOMB,  
GREG LINDELL, RICHARD D. WILSON,  
DAVID REISHUS, SHERYL VEZNER,  
JONATHON WEISS, DEBORAH  
SCHADEGG, JEFF L. AMBERG,  
DEBORAH R. GARBISON, SCOTT A.  
BEHREND, LANA K. JENSEN, DAVID S.  
LOETSCHER, CHRISTOPHER D. CHUTE,  
PAUL D. HOFLUND, JOSEPH HOBSON,  
MICHAEL S. GREEN, BRUCE W.  
JULSON, JUNE E. LIND, SHANNON  
REIMANN, CHRISTOPHER SEIDLER,  
JOHN SOFIE, NICHOLAS DUFFY, SUSAN  
M. ARMSTRONG, COURTNEY FELDA,  
JENNY M. CARUFEL, LEIGH C. MCCOY,  
ANDREW LEIFFORT, DAVID R. CRIST,  
JOAN M. FABIAN, KENT  
GRANDLIENARD, MICHAEL F.  
ROGOSHESKE, JOE DUROCHER, BARB  
STOLTZ, DANIEL KELLEY, JOHN C.  
HILLYARD, MARGARET THRON,  
RICHARD S. PUNG, ROGER J.  
BABURAM, NATALIE LESEMAN, LISA  
RUDEEN, and SEAN E. KELLY,

ORDER

Defendants.

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Jerry J. Duwenhoegger, Sr., pro se.

Kelly S. Kemp, MINNESOTA ATTORNEY GENERAL'S OFFICE, for defendants  
King, Hammer, McComb, Lindell, Wilson, Reishus, Vezner, Weiss, Schadeegg, Amberg,  
Garbison, Behrends, Jensen, Loetscher, Hoflund, Hobson, Green, Reimann, Seidler,  
Sofie, Duffy, Armstrong, Felda, Carufel, McCoy, Leiffort, Crist, Rogosheske, Durocher,  
Kelley, Hillyard, Pung, Baburam, Leseman, Rudeen, and Kelly.

This matter is before the Court on the January 28, 2013 Report and Recommendation (“R&R”) of United States Magistrate Judge Janie S. Mayeron. Judge Mayeron recommends granting the motion of defendants King, Hammer, McComb, Lindell, Wilson, Reishus, Vezner, Weiss, Schadeegg, Amberg, Garbison, Behrends, Jensen, Loetscher, Hoflund, Hobson, Green, Reimann, Seidler, Sofie, Duffy, Armstrong, Felda, Carufel, McCoy, Leiffort, Crist, Rogosheske, Durocher, Kelley, Hillyard, Pung, Baburam, Leseman, Rudeen, and Kelly for summary judgment. No objections have been filed to the R&R in the time period permitted and the Court accordingly adopts the R&R.

In lieu of filing an objection, plaintiff Jerry Duwenhoegger has filed a motion to amend his third amended complaint. This motion is extremely untimely — the deadline for filing such motions expired nearly a year ago, on April 1, 2012, ECF No. 123 — and Duwenhoegger offers no justification whatsoever for his untimeliness. Although courts should “freely give leave [to amend a pleading] when justice so requires,” Fed. R. Civ. P. 15(a)(2), a party seeking leave to amend a pleading after the deadline for such motions has passed must show good cause. *See Sherman v. Winco Fireworks, Inc.*, 532 F.3d 709, 716 (8th Cir. 2008). Duwenhoegger has made no such showing and his motion is accordingly denied. Moreover, the only way in which Duwenhoegger seeks to amend his complaint is to add individual-capacity claims against defendants. As Judge Mayeron found, however, Duwenhoegger’s claims fail on the merits and thus amendment would be futile.

#### ORDER

Accordingly, based on the foregoing, and on all of the files and records herein, IT IS HEREBY ORDERED THAT:

1. The Court ADOPTS the R&R [ECF No. 199].
2. Defendants' motion for summary judgment [ECF No. 170] is GRANTED.
3. Plaintiff's third amended complaint [ECF No. 135] is DISMISSED WITH PREJUDICE as to defendants King, Hammer, McComb, Lindell, Wilson, Reishus, Vezner, Weiss, Schadegg, Amberg, Garbison, Behrends, Jensen, Loetscher, Hoflund, Hobson, Green, Reimann, Seidler, Sofie, Duffy, Armstrong, Felda, Carufel, McCoy, Leiffort, Crist, Rogosheske, Durocher, Kelley, Hillyard, Pung, Baburam, Leseman, Rudeen, and Kelly.
4. Plaintiff's motion to amend the third amended complaint [ECF No. 200] is DENIED.

Dated: February 21, 2013

s/Patrick J. Schiltz  
Patrick J. Schiltz  
United States District Judge